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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,360	11/20/2003	Mitsuhiro Fukuda	KOT-0084	9510

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CANTOR COLBURN LLP  
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EXAMINER

THOMPSON, CAMIE S

ART UNIT PAPER NUMBER

1774

DATE MAILED: 04/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/718,360

Applicant(s)

FUKUDA ET AL.

Examiner

Camie S Thompson

Art Unit

1774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Specification***

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

3. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 is rendered indefinite because it is unclear as whether or not the component layer and the light emission layer is the same because claim 1 recites that the component layer comprises a compound represented by formula 1 and the light emission layer contains a phosphorescent

Art Unit: 1774

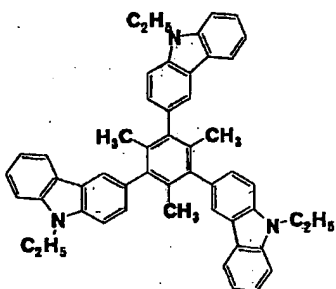
compound. Claim 2 is dependent upon claim 1. Claim 2 recites that the light emission layer contains the compound of formula 1. Also, it is unclear as to whether or not the light emission layer contains a phosphorescent compound and a compound of formula 1.

***Claim Rejections - 35 USC § 102***

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 1-4, 6-8 and 12 are rejected under 35 U.S.C. 102(a) as being anticipated by JP 2002-308837.

The Japanese reference discloses a compound that has good hole transportability and can be used in a light emitting device. Formula HT-7 of the reference discloses a compound



Wherein n is 3 for the carbazole residue and there is no 3-fold axis of symmetry. Also, the compound HT-7 of the reference has an aromatic ring that is benzene and the benzene ring is linked to the three carbazole derivative by a chemical bond as per the instant claims. Paragraph 0039 of the reference discloses that the light emitting device comprises an anode, a cathode and luminous layer as per instant claim 1. The compound of formula HT-7 can be found in the luminous layer (see reference claim 6).

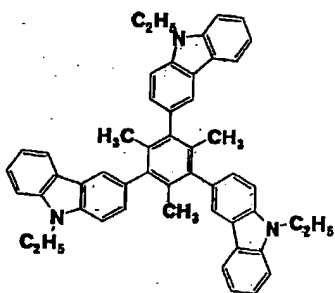
*Claim Rejections - 35 USC § 103*

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 2000-308837 in view of Thoms et al., U.S. Pre Grant Publication 2003/0205696.

The Japanese reference discloses a compound that has good hole transportability and can be used in a light emitting device. Formula HT-7 of the reference discloses a compound



Wherein n is 3 for the carbazole residue and there is **no** 3-fold axis of symmetry. Also, the compound HT-7 of the reference has an aromatic ring that is benzene and the benzene ring is linked to the three carbazole derivative by a chemical bond as per the instant claims. Paragraph 0039 of the reference discloses that the light emitting device comprises an anode, a cathode and luminous layer as per instant claim 1. The compound of formula HT-7 can be found in the luminous layer (see reference claim 6). Reference claim 6 does recite the use of at least one luminescent material, which can emit light from a triplet excited state to be used in the light

Art Unit: 1774

emitting device. The Japanese reference does not disclose a phosphorescent compound such as a metal complex in the light emitting layer. Thoms discloses carbazole based materials for guest-host electroluminescent systems (see paragraph 0011). Thoms discloses the use of tricarbazole benzene (has a 3-fold axis of symmetry) in the luminescent layer (see paragraph 0035). Thoms discloses using Irppy3 and the phosphorescent compound in the luminescent layer (see paragraphs 0047 and 0058). The addition of a phosphorescent material in the luminescent layer provides a difference in energy transfer between the carbazole compound and the phosphorescent compound (see Thom, paragraph 0008). Therefore, it would have been obvious to one of ordinary skill in the art to have the luminescent layer of the Japanese reference contain the phosphorescent compound Irppy3 in order to allow for efficient charge transport throughout the light emitting device.

### ***Double Patenting***

7. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

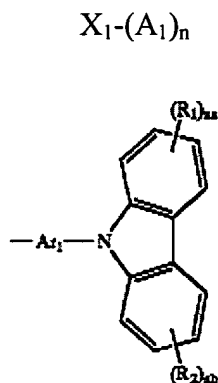
A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground

Art Unit: 1774

provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

8. Claims 1-12 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 5-7 of copending Application No. 10/718,025. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications recite an organic electroluminescent element comprising an anode, a cathode and a component layer including a light emission layer, the component layer being provided between the anode and the cathode, wherein the component layer contains a compound represented by



Wherein  $A_1$  represents a group, , and  $Ar_1$  can be a divalent aromatic hydrocarbon and  $X_1$  can be a benzene ring. The co-pending application does not disclose whether or not the compound has an n-fold axis of symmetry. The compounds in the co-pending application are generic and can encompass compounds without an n-fold axis of symmetry.


Art Unit: 1774

Therefore, it would have been obvious to one of ordinary skill in the art to have a compound that does not have a n-fold axis of symmetry in the co-pending application because the co-pending application encompasses compounds that have and do not have an n-fold axis of symmetry.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Camie S. Thompson whose telephone number is (571) 272-1530. The examiner can normally be reached on Monday through Friday from 7:30 am to 4:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rena L Dye, can be reached at (571) 272-3186. The fax phone number for the Group is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
RENA DYE  
SUPERVISORY PATENT EXAMINER  
A.U. 1774 3131-5